

STAFF REPORT
MAPC: November 3, 2022
DAB VI: November 7, 2022

CASE NUMBER: CON2022-00041 (City)

APPLICANT/AGENT: Global PDR Solutions LLC/Hamendra Bhakta (Applicant)
Baughman Company (Agent)

REQUEST: Nightclub in the City

CURRENT ZONING: LC Limited Commercial District

SITE SIZE: 0.93 acres

LOCATION: Generally on the northeast corner of Hoover Avenue and Central Avenue
(5534 West Central Avenue)

PROPOSED USE: To permit Nightclub in the City

RECOMMENDATION: Approve with Conditions



BACKGROUND: The applicant is requesting a Conditional Use to permit Nightclub in the City on property zoned LC Limited Commercial District. The property is generally located on the northeast corner of North Hoover Avenue and West Central Avenue (5534 West Central Avenue). The property is currently developed with two restaurants, vehicle sales, and a roofing company. The applicant seeks to permit live music and entertainment (defined as “Nightclub in the City”) as accessory to the restaurant currently located on the north end of the property.

The need for the Conditional Use at this location is due to the requested land use and the proximity of TF-3 Two-Family Residential District zoning, which is located directly north of the subject property. Supplementary Use Regulations in Section III-D.6.w of the Unified Zoning Code require a Conditional Use for “Nightclub in the City” when it is within 300 feet of residential zoning district. This Conditional Use would permit outdoor service of food and drink as an accessory operation of the restaurant. The live music and entertainment proposed on the subject site shall conform to this Supplementary Use Regulation, which is stated below:

1. No additional Parking Spaces or restroom facilities need be provided for the initial sixteen occupants to be served in the outdoor area, but Parking and restroom facilities shall be provided to full Code requirements for the portions of the permitted occupant load exceeding sixteen persons.
2. No noise generated in conjunction with the outdoor use shall exceed a sound level of five decibels as measured on the “A” scale of a sound pressure level meter over the normal background noise that is discernible at any property line of the Lot within 1,000 feet that has a residential zoning classification. Normal background noise shall be established by taking the average of ten sound level readings in any ten minute period.
3. The outdoor area shall be screened from ground level view from any residential-zoned property within 150 feet of the outdoor area, by screening in accordance with the requirements of Section IV-B.
4. If lighting facilities are provided, the intensity of light and arrangements of reflectors shall be such as not to interfere with residential uses. The lighting shall be in compliance with the lighting requirements of Section IV-B.4.
5. The outdoor use shall be designed and maintained in compliance with all other licenses, regulations, and requirements of the fire, health, and building codes, including requirements for emergency access to or from any barriers that limit ingress or egress.

Property to the north is zoned TF-3 Two-Family Residential District and is developed with a single-family residential dwelling approximately 100 feet from the subject building. Property to the south is zoned LC Limited Commercial District and is developed with a thrift store. Property to the east is zoned LC Limited Commercial District and is developed with a real estate agency. Property to the west is zoned GC General Commercial District and is developed with an autobody shop.

Wichita’s Landscape Ordinance was passed in order to enhance the attractiveness of the city and improve the quality of life for its citizens and visitors. The ordinance seeks to protect residential developments from surrounding uses, soften harsh expanses of pavement, and screen undesirable views. The property to the north of the subject site, zoned TF-3 Two-Family, is already screened from this commercial property with a row of mature evergreen trees.

The property to the north is developed with a single-family residential dwelling located approximately 100 feet from the proposed Nightclub in the City. As such, staff is recommending conditions that would limit outdoor entertainment, limit hours of operation, and only permit amplified music indoors to mitigate possible negative impacts to the surrounding residential properties.

The site plan demonstrates an existing parking lot on site that will satisfy the restaurant’s parking requirements of one parking space per three seats, as defined in the UZC, Art. IV-Sec. A. The applicant can also have the parking requirements reduced through an Administrative Adjustment.

CASE HISTORY: On August 11, 1949, the Patterson Gardens Addition was created. In 2022, a Conditional Use was granted to allow Vehicle and Equipment Sales on the property (CON2022-00010).

ADJACENT ZONING AND LAND USE:

North:	TF-3	Single-family residential dwelling
South:	LC	Thrift store
West:	GC	Autobody shop
East:	LC	Real estate agency

PUBLIC SERVICES: All municipal services are in place and can accommodate the required services to the site. West Central Avenue is a paved, five-lane arterial with sidewalks on both sides. North Hoover Street is a paved, two-lane local street with no sidewalks. Wichita Transit serves this area on the northeast corner of North Hoover Road and West Central Avenue.

CONFORMANCE TO PLANS/POLICIES: The proposed application is in conformance to the *Community Investments Plan*. The *Community Investments Plan* (the Wichita-Sedgwick County Comprehensive Plan) includes the 2035 Wichita Future Growth Concept Map. The Map identifies the area in which the site is located to be appropriate for “Commercial”. This category is described as “*areas that reflect the full diversity of commercial development intensities and types typically found in a large urban municipality. Convenience retail, restaurants, small offices, and personal service uses are located in close proximity to, and potentially mixed with, Residential Uses. Major destination areas (centers and corridors) containing concentrations of commercial and office uses that have regional market areas and generate high volumes of traffic are located in close proximity to major arterials or highways and typically are buffered from lower density residential areas by higher density housing types.*”

The requested Conditional Use is in conformance with the Locational Guidelines of the *Community Investments Plan*, which “provide a framework for decision-making regarding land use changes so as to: encourage patterns of development that efficiently and effectively use land, public infrastructure, and services; strive for compatibility among various land uses; and, promote quality of place through design.” The Locational Guidelines state that “non-residential uses should provide appropriate screening and buffering from residential uses.” The mature row of evergreen trees on the north property line serves as a buffer to mitigate impacts associated with the Nightclub in the City.

The requested Conditional Use is in conformance with the goals of the *Wichita: Places for People Plan*. The *Wichita: Places for People Plan* provides recommendations for urban infill development in the Established Central Area (ECA). The subject site is located within the ECA. In general, the ECA is envisioned as “a place for people - a place that provides for the movement of people - on foot, on bike and through transit - in balance with automobiles.”

The subject property is located within an area identified as an “area of opportunity.” The Places for People Plan defines Areas of Opportunity as those “areas that generally exhibit economic challenges, a disconnected development pattern, and a lack of walkable places and facilities. These areas are in need of strategic reinvestment, both public and private to assist in redefining and reinvigorating the area, physically and socially.”

RECOMMENDATION: Based upon the information available at the time the report was prepared, staff recommends the Conditional Use be **APPROVED** subject to the following conditions:

1. Nightclub in the City’s expanded uses shall apply only to those ancillary uses associated with a restaurant.
2. Nightclub in the City shall adhere to Supplementary Use Regulations in Section III-D.6.w of the Unified Zoning Code.

3. The hours of operation for entertainment on the site are restricted to 8:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday.
4. There shall be no amplified music outdoors, including on any patio whether enclosed or unenclosed.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the north is zoned TF-3 Two-Family Residential and is developed with a single-family residential dwelling. Property to the south is zoned LC Limited Commercial and is developed with a thrift store. Property to the east is zoned LC Limited Commercial and is developed with a real estate agency. Property to the west is zoned GC General Commercial and is developed with an autobody shop.
2. The suitability of the subject property for the uses to which it has been restricted: The property is suitable for the uses to which it has been restricted. The property is zoned LC Limited Commercial. In this case, the Conditional Use is only required because of the proposed use being located within 300 feet of a residential zoning District. Mitigating factors, such as limited hours of operation, landscape buffering, and indoor music make it a more suitable location for music and entertainment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The removal of restrictions will not detrimentally affect nearby properties. Nightclub in the City is allowed by Conditional Use and is subject to the Supplementary Use Regulations found in the Wichita-Sedgwick County Unified Zoning Code, Sec. III-D.6.w. Said regulations, such as the dense row of evergreen trees that serve as a buffer, limiting hours of operation, and limiting music to indoor spaces are designed to mitigate possible negative impacts on surrounding properties. In this case, the Conditional Use is only required because of the proposed use and its proximity to residential zoning.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of this application is not anticipated to have a significant detrimental impact to public health, safety, or welfare. Denial of the request could represent a loss in the use and enjoyment of the applicant's property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed application is in conformance to the *Community Investments Plan* and the *Wichita Places for People Plan*, as discussed in the report.
6. Impact of the proposed development on community facilities: The proposed use should have not negative impacts on community facilities.

Attachments:

1. Site Plan
2. Aerial Map
3. Zoning Map
4. Land Use Map
5. Site Photos

CONDITIONAL USE SITE PLAN



SEPT. 26, 2022



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Legend

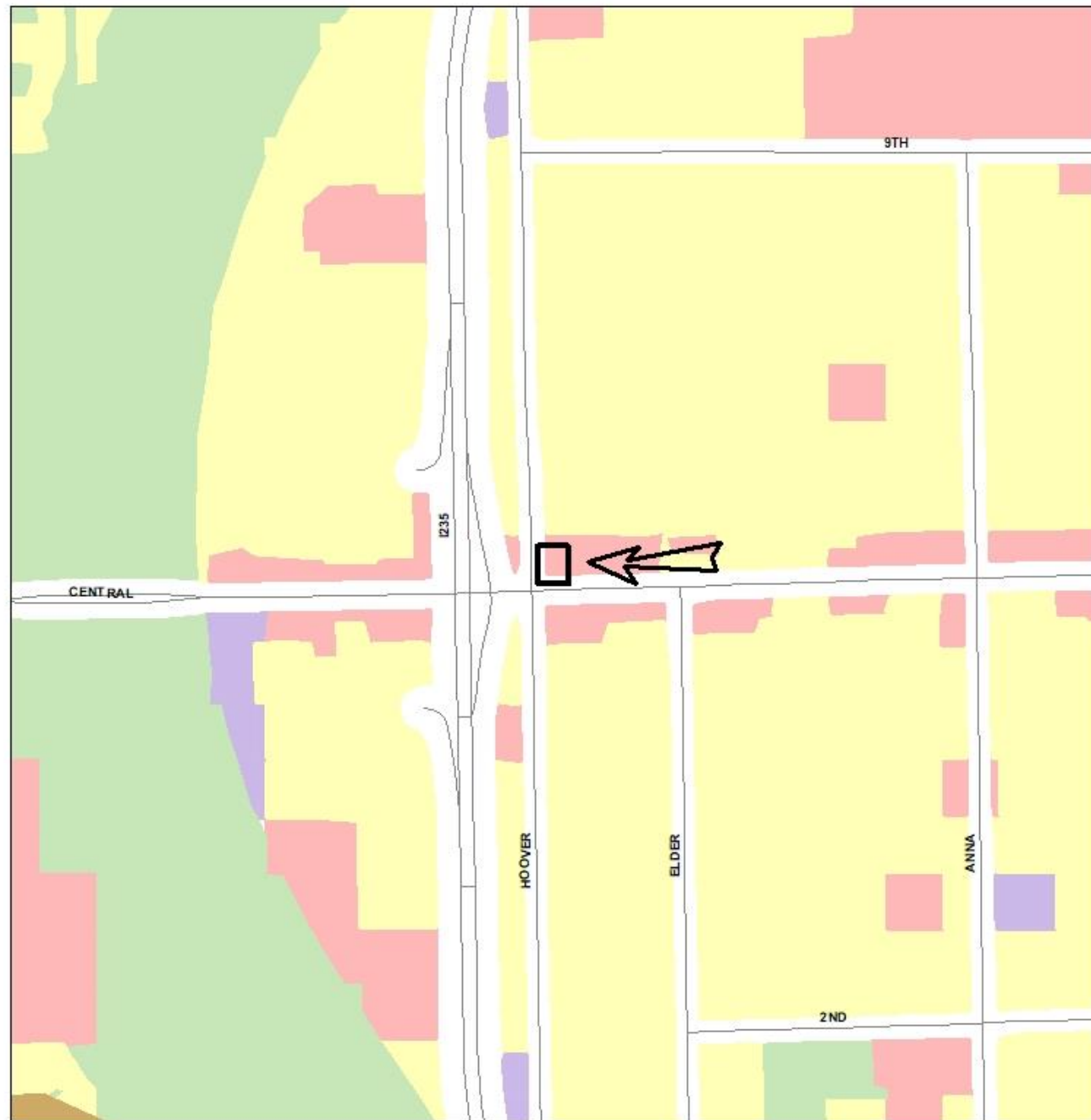
- ### Statistical Development Areas

- ## LAND USE

- N



В соответствии с требованиями к содержанию и структуре документов, подлежащих регистрации, в настоящее время в Едином государственном реестре записаны следующие документы:



Looking east towards site



Looking northeast away from site



Looking southeast towards site



Looking west towards adjacent residential structure



Looking west away from site



Looking northeast away from site



Looking north towards site



Looking northeast towards site



Looking northwest towards site



Looking northwest towards site

